

REMARKS

No claims have been added, amended or cancelled in this Reply. Claims 40-54 are pending in this application.

Rejections of the independent claims are discussed below. Dependent claims are not specifically discussed and are patentable at least by virtue of the fact that they include all of the limitations of their respective independent claims, including the limitations that are not taught by the cited references, as discussed below.

Rejections under 35 U.S.C. § 102(b)

Claims 40-45 and 52 were rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 5,991,277 to Maeng et al. ("Maeng"). Applicants respectfully traverse.

Claims 40 and 52

The Examiner has rejected Independent claim 40 with only the following information:

With respect to claims 40 – 45 and 52 note Figs. and see Col. 7, line 44 - Col. 8, line 16 and Col. 4, line 62 – Col. 5, line 3.

Office Action at pg 2. A prior art reference must teach or suggest every element of a rejected claim to form the basis of a prima facie case of anticipation under 35 U.S. C. § 102(b). Here the Examiner has not pointed out how the cited sections of Maeng teach or suggest each element of the rejected claims, but rather has simply pointed to sections of Maeng with no further comment. In a complex art the Examiner has a duty to explain how the prior art anticipates the rejected claims and simply pointing to all of the figures and broad sections of the cited reference with no additional discussion does not meet this duty. Applicants respectfully request the Examiner to provide an adequate explanation of his allegations of anticipation should the Examiner maintain this rejection.

Maeng is directed to a method for determining a talk/listen state using voice detection and audio sampling. See Maeng at Abstract. Maeng discloses that "human voice detection may be incorporated into a multipoint conference system to provide a more accurate determination of

whether a conference site is a talking site or a listening site...[thus] the primary transmission site is more accurately selected.” Maeng at Col. 2, lns 45-50. “Controller unit 16 then uses this talk/listen determination in order to switch video between conference sites.” Maeng at Col. 4, lns 45-46. In summary, Maeng uses audio information from the different sites participating in a multipoint conference to determine which of the multiple video sites is the primary video feed by using human speech recognition.

In contrast to Maeng, which is directed to determining which endpoint is a speaking endpoint based on recognizing human speech, claim 40 is directed to how a summed conference audio signal is generated to broadcast to participants of the conference. In order to anticipate a claim the cited reference must disclose each and every limitation of the claim. MPEP § 2131. Maeng cannot anticipate claim 40 at least because there is no disclosure of the following two limitations of claim 41:

- “including the received audio signal in a conference sum audio signal broadcast to at least some participants of the conference depending the result of the comparison”
- “determining a dynamic threshold value ... if and only if ... noise was present”

Maeng does not disclose that received audio signals are optionally included or excluded from the conference audio based on a comparison. Maeng simply uses the audio characteristics to determine what site is talking and based on this determination the primary video transmission site is selected.

Furthermore, Maeng does not disclose determining a dynamic threshold value for a port if and only if noise is present at the port. In contrast Maeng teaches away from this element because Maeng teaches using a dynamic threshold level with respect to audio received from every participant, whether or not noise is detected from that participant. See col. 6, lines 59-64 (“A technical advantage of the present invention is the use of human voice detection along with the determination and use of a dynamic threshold level with respect to each conference site based on audio signals received from that site for use in determining whether the site is talking or listening,” *emphasis added*).

For at least these reasons Maeng cannot anticipate independent claim 40. Independent claim 52 incorporates substantially the same limitations of claim 40 and therefore Maeng cannot

anticipate independent claim 52 for at least the same reasons. Claims 41-45 depend from and incorporate all the limitations of independent claim 40 and are necessarily not anticipated for at least the same reasons as independent claim 40. Applicant respectfully requests the Examiner withdraw this rejection.

Rejections under 35 U.S.C. § 103(a)

Claims 46-51 and 53-54 were rejected under 35 U.S.C. § 102(a) as allegedly being obvious over Maeng in view of U.S. Patent No. 5,841,763 to Leondires et al. ("Leondires"). Applicants respectfully traverse.

Claims 46 and 53

The Examiner rejects claims 46-51 and 53-54 with only the following information:

With respect to claims 46 – 51 and 53 - 54 Maeng et al. teach the claimed system, software and method except for the DTMF aspect of the present application.

However, Leondires et al. teach such (note DTMF detection 270). It would have been

Office Action at pg. 2.

Leondires appears directed to "[a] processor unit for a multipoint audio-video conferencing system." Leondires at Abstract. The processor board has an element named DTMF detection 270 in Fig. 7. The Examiner has provided no citation to the text of the reference and after review it appears that the only mention of DTMF detection disclosed by Leondires is that the processor unit includes a function which performs "DTMF detection (DTMF), which detects when a digital telephone button has been depressed." Leondires at Col. 14 Ins. 13-14. There does not appear to be any disclosure related to what the processor unit does with this DTMF signal.

The Examiner admits that Maeng does not teach the DTMF aspect of the present application and asserts that Leondires discloses this missing limitation. Applicant respectfully

disagrees. Neither Maeng nor Leondires disclose “if a DTMF tone is present in the audio signal, omitting the received audio signal from a conference sum audio signal broadcast” as explicitly recited in claim 46.

For at least these reasons Maeng and Leondires either alone or in combination fail to teach each recited element of the claimed invention and, as a consequence, the Examiner has failed to make a legitimate prima facie case of obviousness. Independent claim 53 incorporates substantially the same limitations of claim 46 and is therefore patentable for at least the same reasons. Accordingly, Applicant respectfully requests that the Examiner withdraw these rejections and pass independent claims 46 and 53 to allowance. For at least the same reasons, claim 47 which depends from independent claim 46 is allowable over Maeng and/or Leondires. Such action is respectfully requested.

Claims 48 and 54

Independent claim 48 recites, among other limitations, “if valid speech is present and if no DTMF tone is present, including the received audio signal in a conference sum audio signal broadcast.”

As discussed above, Maeng does not disclose anything about DTMF tones and Leondires does not disclose anything other than detection of a DTMF signal. Therefore neither Maeng nor Leondires either alone or in combination can render claim 48 obvious.

The Examiner has failed to make a legitimate prima facie case of obviousness. Independent claim 54 incorporates substantially the same limitations of claim 48 and is therefore patentable for at least the same reasons. Accordingly, Applicant respectfully requests that the Examiner withdraw these rejections and pass independent claims 48 and 54 to allowance. For at

least the same reasons, claims 49-51 which depend from independent claim 48 are allowable over Maeng and/or Leondires. Such action is respectfully requested.

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Should the Examiner have any questions or concerns that can be addressed via telephone, the Examiner is requested to contact the undersigned attorney at 832-446-2445.

Respectfully submitted,

May 12, 2008
Date

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